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REFLECTIONS

ON

GOVERNMENT

IN GENERAL,

WITH

THEIR APPLICATION

TO THE

BRITISH CONSTITUTION.

IN FIVE SECTIONS.

I. On the natural Equality of Man ;
with Remarks on the Republican
and Monarchical Forms.

II. On the Form of Government,
relative to the Security of Li-
berty.

III. On Government, relative to

the Improvement of the People ;
with Observations on Reform.

IV. On Government relative to
Religion.

V. On Government, relative to its
Origin and Powers ; its Laws and
Organization.

LEX FACIT REGEM.

Bract. l. 1, c. 8, f. 5.

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P R E F A C E.

AN accidental conversation gave birth to the following Reflections. Some papers, containing the substance of them, were partially circulated, written from the impulse of the moment, and in which the authorities were quoted from memory. From the approbation they received, the Author was induced to make some additions to them, and to give more immediate reference to the books he cited.

He had frequently observed persons halting between two opinions: and he had found

also people, on the one hand, who seemed to think that every thing in our political world was right ; and on the other, that those were not wanting who seemed to think that every thing was wrong. The former he regarded as acting from a blind prejudice, from a kind of *Carbonarian* faith ; and the condemnations of the latter he had often found flowing from an ignorance of the principles of the very Constitution which they reprobated.

Many of these last held positions which were certainly just ; but confounding the abuses, the corruptions, which they conceived to exist in our polity, with our polity itself, condemned the Constitution in the whole. He thought it absurd, unjust, to confound the abuses of a Government, whether real or imaginary, with the Constitution of a State ; and, therefore, concluded that the best, and indeed the only method of

vindicating that of our own, was by showing that its principles were those of sound policy, and consistent with the nature of mankind.

To vindicate abuses or corruptions because the Constitution in itself was good, he considered as incongruous as to condemn the Constitution because such abuses or corruptions were supposed to exist. He has not hesitated, therefore, sometimes to intimate where correction would be practicable; and sometimes indeed, where he conceived that correction to be absolutely requisite to the preservation of the very principles of that Constitution which we boast.

He had observed too that, while some were resolving the Constitution of these realms into an absolute Democracy, there were others who were no less desirous of establishing the persuasion that the Monarchy was as absolute. If the former asserted, that the Monarchical part of our polity was merely

an usurpation of the rights of the people, the latter did not scruple to affirm that the people had usurped the rights of their King. One conceived that, as all political power originated in the aggregate body, the Monarchy and Peerage were adventitious excrescences, heterogeneous and unnatural.—The other inverted the scheme, and maintained that the Peerage and Commons derived their very existence from the Crown.

It frequently happens, that the several parties, from their ardour in refuting and exposing each other, recede equally from the truth of the case. Each flies to the opposite extreme ;—and thus very fortunately leaves a wide field for the peaceable and unprejudiced to explore uninterruptedly the paths of utility and truth.—Let the peaceable and unprejudiced, therefore, conscious of the rectitude and benevolence of their pursuits, superior to the cavillings and condemnations of either,

fearless of their frowns, and regardless of their favour, proclaim in manly dignity the truths they have descried. Their coteremporaries and their posterity will ask it at their hands,—and the blessings of both shall repay them.

friends of their country
 have, perhaps, in many
 instances, been
 their policy will be
 and the policy of both



REFLECTIONS

ON GOVERNMENT, &c.

SECT. I.

ON THE NATURAL EQUALITY OF MAN;
WITH REMARKS ON THE REPUBLICAN
AND MONARCHICAL FORMS.

AS a consequence inseparable from the diffusion of knowledge, Man, ever ardent in the pursuit of liberty, reflects upon his present condition, and enquires into the justice of the restraints which he finds himself subject to. He is conscious of certain powers, of certain rights. His reason, his observation, furnish him with certain principles which cannot be controverted, because they are founded in nature. Dwelling on these principles, he often conceives oppression arrayed in tenfold terrors; and, enraged at Tyranny, whether actual or ideal, he strives to

avert the vindictive scourge by crushing her in his turn. Thus, from plausibilities congenial to his wishes and flattering to his passions, or from the consideration of principles which he is sensible must exist, is he frequently hurried into consequences he does not foresee ; and either perverts those axioms which cannot be denied, or argues from premises which are founded in error.

There are certain principles which, as they cannot be controverted, should never be forgotten. They may be in some measure, and for some time, suppressed by a Tyranny conscious of the natural enmity which truth ever bears to it ; but they always recover their strength, and burst forth with redoubled efficacy. Those principles are now known ; they urge men to investigate, and inform them of oppressions.—As Freedom is founded on the immutable principles of Nature, and as Tyranny is the offspring of Injustice, Freedom must one day prevail.

But let reformation be adopted, not enforced by the sword, A government which is never corrected, must necessarily become oppressive : a timely correction prevents distrust ; an accumulation of abuses provokes

despair. A people disgusted with a tyrannical form of government, are too often induced wholly to overthrow it, and to establish a new constitution upon its ruins. The establishing of a new constitution is important in the extreme. "Hear this, ye nations!" and profit by the example which is now before you. As the spirit of improvement cannot be annihilated, it is the wisdom of a government to meet it. *That* reformation might in most States be adopted, which would at once add strength to society, and make the people happy and free. We cannot reason mankind out of their feelings or their fears: but tyrants never reason. We cannot suppress the spirit of inquiry. A nation at peace with others discovers its grievances: hence the endeavour of those States which dread investigation, to divert the attention of the people by war. But horrid and impolitic is the scheme! Such endeavour is an acknowledgement of abuses, or who would deprecate the enquiry? People may be diverted while a war continues; but the oppressions consequent to a war increase the evils, and accelerate destruction. Wretched is that State, which has need of

external war to preserve internal peace ! If we see a government continue, which has long been oppressive, it is because the people continue in barbarism and superstition. When the beams of knowledge begin to dawn, they discover those oppressions. The arm of power suppresses investigation : but measures like these always awake suspicion ; and at length the patriotic breast is warmed with ardour. People urged to desperation break forth in vengeance ; and not desirous, perhaps unable, to separate the perverted principles of a constitution from its corruptions, too frequently overthrow the whole.

Let us then acknowledge those principles which we cannot disprove : and by arguing from them let us endeavour to convince our fellow men that the principles of nature lead, not to confusion, but to peace. Let us show that civil subordination is one of those principles, without which neither public nor private liberty can be maintained. Let us show that our Constitution never deprecates enquiry, for it does not fear it ; but that it is founded upon those principles which they thus appear desirous of establishing.

That all men are naturally equal, is a position which we cannot deny. Each is alike the creature of his God; and each is composed of a soul and body generically the same. But, though thus essentially equal, individuals differ from each other in relative circumstances; as one man is tall, and another short; one is as far transcendant in his abilities, as another falls short of mediocrity: persons varying in their intellectual powers no less than in their shape, their size, or their countenance.

And as men are naturally, so also are they politically equal. But then by political equality I only mean that each man *is free*, i. e. is equally protected by the laws. In a free State one man cannot, by the terms, be a slave to another; each is subject only to the laws of that State: no individual is superior to another, but as he derives his superiority from such laws. Worth, wisdom, riches, are intitled in society to their several degrees of respect; but the man possessed of either, or of all, has not, in consequence, a right to tyrannize over those who are not so circumstanced. Each depends only upon the laws of his country; and the laws are assented to by the community in general.

Rule, and consequently subordination, are requisite in society: but the modification of government is the creature of the governed. There must be government; but *the mode* of governing is to be regulated by the particular circumstances of the persons and place over whom and where it is to be executed.—Hence arises monarchy, oligarchy, democracy, &c.

But the political equality of man does not depend merely on the *mode* of government, but on having the aggregate of individuals the source of power; * and, consequently, such equality may be preserved to as great an extent in a monarchical, as in a democratic form of polity. In a republic, subordination to military and civil officers is as necessary as in a monarchy; and in a free, or what is

* Thus, in this nation, the King, Lords, and Commons, represent the associated body, or aggregate of individuals; and no laws are binding, which are not enacted by them unitedly. See *Stat.* 13. *Car.* II, c. 1. 25 *Hen.* VIII, c. 21. 5 *Co.* 55 b. 8 *Co.* 20 b. 12 *Co.* 74, 5. 13 *Co.* 17 & 47. 2 *Stra.* 1057. 2 *Brownl.* 20 & 38. *Plowd.* 79. 2 *Atk.* 653, &c. 3 *Com. Dig.* *Parliam.* 304 (G. 10) & *Tit. Ley.* &c. *Sir Tho. Smith, Commonwealth*, part 2, c. 3. 3 *Econom.* 54, 5, 123, 133, &c. 1 *Bl. Comm.* c. 2, p. 154, &c. and see *Hooker's Eccles. Pol.* b. 1, paragr. 10, p. 86, &c.

termed a *limited* monarchy, the individual is only dependent on the laws, and owes obedience to those only, whom such laws have invested with power. The monarch does not rule in *his own* right, nor does he rule over a particular State by the immediate ordination of Heaven. But, indeed, those doctrines seem now not to need a refutation, other than they carry in themselves: few, at this time, appear desirous of instilling “Th’ enormous faith of many made for one;” or to vindicate those governments, “where one makes the whole, and the whole is nothing.”

The King, in this nation, derives his power from the laws: “The law makes the King,” says BRACTON*; and the law is the law of the society at large. The individual is, consequently, equally free in such a monarchy as in a republic†; he owning

* “*Lex facit Regem.*” *BraH.* l. 1, c. 8, f. 5, & l. 2, c. 16, f. 3; and *Fleta*, l. 1, c. 5; and so *Plowd.* 315, b; and see *Post.* f. 5.

† When the legislative authority in a republic is vested in representatives of the people,—a senate, or intermediate body of men,—and a president, in whom the executive power is also placed; such republic so approximates to that form of

no inferiority or subordination to any of his fellow-men, other than those whom his laws render superior in a political capacity, or to whom he pays obedience by his own volition ; or in pursuance of those commands of nature, which teach us to respect superior worth.

Even in that state of savage rudeness, which some dignify with the title of a state of nature, no individual can be entitled to injure another, or, in other terms, have a right to do wrong ; but when a person has the power, we too frequently find him to have the inclination, to do so : hence man seeks society to protect him from the depredations and insults of those who would oppress him. Society therefore must, from its very nature, subject men to general laws ; and man owes obedience in return for protection. Could I injure another without controul, that other might equally injure me ; and thus would mankind be involved in misery, terror, and despair : society, there-

constitution which we acknowledge, and generally denominate a monarchy, as to differ little more than in name, save only as to the manner in which the senate and president are chosen, and the duration of their authority.

fore,

fore, is a general security for the liberties of the individual, and derives its powers from those who compose it. As the laws of society are the laws of the whole body, and as each individual is amenable to them and under their controul, each individual may be said to be politically equal; and, consequently, we must say with VOLTAIRE, that by the term Equality you are not to understand that absurd and impossible equality, by which the master and the servant, the magistrate and the artificer, the plaintiff and the judge, are confounded together; but that equality, by which the subject depends only on the laws, and which is the defence of the weak against the ambition of the powerful.*

* *Spir. of Nat.* v. 2, c. 27, p. 89; and see *Montesq. Spir. of Laws*, v. 1, b. 8, ch. 2 & 3.

ARISTOTLE says, it is in vain to think of the equalization of property, honours, &c. unless you equalize also the passions and desires of mankind. *Polit.*

S E C T. II.

ON THE FORM OF GOVERNMENT, RELATIVE TO THE SECURITY OF LIBERTY.

IN establishing a new Constitution, men are actuated by patriotism ; or, if not so actuated, they dare not oppress. The stripes of tyranny are not yet healed ; and the people are inflated with the idea of freedom.—But a Constitution must not be the creature of caprice. It is not enough that freedom exist at its establishment : it should provide for the continuation of liberty. For man ought not to be entrusted with power, without establishing also the means of controul. We must not depend upon THE INCLINATION of those ordained to preside : we must deprive them, as it were, of the CAPABILITY of oppression. The inclination changes with the individual ; but the Constitution under which he rules must be permanent.

Man is fond of authority, and, alas ! too apt to abuse it.—One man, or set of men, may perhaps be found who would only

apply it to good ends; but the next may possibly abuse such power. As man, therefore, *may* abuse it, and as we know not who may hereafter arise, it is incumbent upon those forming a Constitution, so to frame it, as to exclude, as far as human foresight can penetrate, or human caution avail, the possibility of such abuse: and the best method of accomplishing this has always been found to be that of the establishment of a contrariety of interests, which, by their mutual checks upon each other, may preserve the safety and happiness of the whole.

As man is prone to tyrannise, we find the different modes of Government perverted. In a Democracy, and more especially when it prevails in a State of large extent, though the individuals are supposed to act, yet they are generally seen to have their leaders, who too often prove tyrants, though perhaps without the name. In an Oligarchy the chance of tyranny is still greater; and, in an *unlimited* Monarchy, greater still, as such Monarch has none to clash with his interests, and oppose him.

To prevent, therefore, these abuses of power, let us establish some means of coun-

teraction :—let the people (I mean the *aggregate of individuals* and not merely those whom we denominate *commoners*), be still supreme ; yet those whom we denominate commoners cannot act individually : let them, therefore, have representatives ; and, in proportion to the equality and rectitude of such representation, will their real liberty be. As a nation cannot thus act individually as to the legislative power, much less can it do so as to the executive : in this case, therefore, where unity of action is so essential, let them depute an individual to execute. Even in Republics this is necessary : they have their Generals, their Presidents, their Dictators, &c.

In Governments purely democratic there is no check upon the mob.—The mob acts either without direction, without a view, or it is governed by a few individuals who become popular : such leaders may possibly be virtuous ; for virtue, as MONTESQUIEU says, is certainly the principle of a Republic ; but such leaders may possibly *not* be so : if not so, they only aim at the extension of their own greatness ; and their own greatness, when extended, they wish to preserve : hence they aim at becoming Kings, though they

disclaim the title: they become perpetual dictators, or confine the election to their family. If more than one individual become popular, they rend the State with dissensions. This is a kind of aristocracy equally well adapted to enslave and to destroy. A permanent Monarch, therefore, seems preferable, because the society, knowing his power, will be jealous of it; and it is jealousy of power which preserves the freedom of the State: the tyrant, like Othello, seeks to murder when his victim is asleep. And by confining the eligibility to the "kingly office" (for so it is called by SIR JOHN FORTESCUE*) to a particular family, it will prevent contests for such power: An intermediate order forms a check upon both: And thus each portion of the legislative body counteracts the abuses of the others; and, by preventing a depravation of either, effects the happiness of the whole.

Hence then is evinced the wisdom of the maxim that, to preserve liberty, it is necessary that the *legislative power* be DIVIDED; and

* On Mon. c. 8, p. 55; and so also in 1 *Mariae, stat.* 3, c. 1. *f.* 3. *Plowd.* 315 b. and *Law of Forfeiture*, 114, &c. &c. &c.

to carry the determinations of the legislative power into action, that the *executive* should be vested in ONE.

It should seem therefore that the security of liberty must be in proportion to the reciprocity of action of the states or branches of which the Constitution is composed ; to the care which is taken to preserve each of those states or branches distinct from the others, and to prevent the possibility of an incroachment by either ; in proportion as power is independent on individual inclination with respect to those persons who hold offices of state : to the actual responsibility of those persons ; and to the fixed and definite extent of their authority : and lastly to the unrestrained and acknowledged practical rights and powers of the people at large (whether aggregate or individual), to watch over the conduct of those entrusted with authority, to discuss public measures, to represent grievances, and to assert their rights.

In small Republics, continually in danger from the neighbouring States, we have found virtue frequently prevalent, because it was frequently called into action. People awake to its necessity have obeyed its impulse, and

supported the general freedom ; though perhaps often at the expence of the freedom of the individual. But in extensive States, the people, not roused by the perpetual dangers to which the smaller are exposed, lose insensibly that patriotic ardour. Intent on civil employs, and engrossed by personal avocations, they trust too passively to those they have arrayed in power ; and at length, sinking into a listless torpor, thus deprive themselves of that controul which they once confided in as the restraint of usurpation and abuse.

Indeed, from the history of all ages we gather that a Republic is not well adapted for a State of large extent : but man seldom preserves a mean ; from one extreme we too often rush into another. Thus we see a certain Nation aiming at establishing a Republic upon the ruins of a Monarchy once too absolute.† But yet, it is worthy of remark, even that Nation, in so doing, has run directly counter to the opinions and principles of its greatest philosophers, whom it boasts of as the parents of reform.

MONTESQUIEU, VOLTAIRE, ROLLIN, &c. so HELVETIUS, DE LOLME, &c. are

† But see *ante*, p. 7, note †.

decidedly in favour of a Monarchic Government. And if a contempt for every thing which looked like a revealed religion could claim regard from a people who evidently are not overburdened with piety, then the author of "The Origin of Despotism" would be regarded; yet hear what that author says: A Monarchic Government is the Government adapted for mankind, as a theocracy is for Heaven, and as a despotism is for Hell.†

A certain extent of dominion must be destructive to every government. Man owns not ubiquity: hence he appoints vice-roys of his distant provinces. Those vice-roys, far from the eye of investigation, and from the hand of controul, are too often led to seek their own glory and affluence: thus they oppress the people; oppression ends in discontent; and discontent too generally ends in destruction. If this be not the case, they endeavour to become popular; they enwrap themselves in purple, and defy the power which bade them rule. The rays emanating from a point diverge; and, in proportion to their distance from the central body,

† See *Orig. of Desp.* f. 22.

body, their influence and number on a given space decrease.—Thus the malady seizes the extremities, and at length creeps on to the seat of life.

It is the province of man, like that of the God who made him, to diffuse good; but the extension of conquest is not always productive of good: it has, it is true, in some instances, been attended with the expulsion of barbarism; and I believe it will be found, however paradoxically it may appear, that the vanquished State is often more benefited by the conquest than the victorious one: the victorious State generally leaves arts or liberty to compensate the devastation, while it only prepares destruction for itself, and puts a sword into the hands of others to plunge into its own heart.

But to return:—as the grand characteristic of the British Constitution is the division of the legislative power, which form of government has been pronounced by a great philosophic politician to be the best species of constitution that could possibly be imagined by man; * it behoves every Englishman, as he

* *Montesq. Spir. of Laws*, b. 11, c. 8; and see also *Bacon on Engl. Gov.* advertisem. p. iii. iv.

regards the happiness and liberty of himself and his posterity, to be careful to prevent the destruction of that equilibrium of power, which should ever exist between the several branches of his legislature: FOR SHOULD IT EVER HAPPEN THAT THE INDEPENDENCE OF ANY ONE OF THE THREE SHOULD BE LOST, OR THAT IT SHOULD BECOME SUBSERVIENT TO THE VIEWS OF EITHER OF THE OTHER TWO, THERE WOULD BE AN END OF THE CONSTITUTION.*

And let him be more especially mindful of his House of Commons: for should that House ever be so corrupt, as to be at the beck of ministers, or the members be selected by aristocratic influence, so that the Crown might, in effect, become independent on the nation for supplies, † the boasted Constitution of Britain would be no more.

* 1 *Blackst. Comm.* introd. s. 2, p. 51, 2.

† *De Lolme*, b. 1, c. 8, p. 84, 5. b. 2, c. 18, p. 497, 8.

1 *Spir. Laws*, b. 11. c. 6, p. 228.

Should the monarch, by reason of any redundancy of the civil list, or from the resources of continental dominions, be able to coffer up his millions, would he not effectually become independent upon the nation for supplies? Would he not, if he had the inclination to do so, (and is it not such an

One other security there yet remains ; and that is in the spirit of the times. . Oppressions, and even the exertions of prerogative, which have been sometimes exercised with impunity, would now awake the people to a sense of danger ; but the spirit of the times is regulated by the diffusion of knowledge, by the freedom of inquiry, discussion, and of the press.

inclination which this principle of the constitution is immediately designed to guard against ?) would he not, I say, be able to pay an army, or to man his fleet, before he need ask his parliament for a groat ? Should this ever be the case, would the principle here noticed exist any more than in idea ?

S E C T. III.

ON GOVERNMENT, RELATIVE TO THE
IMPROVEMENT OF THE PEOPLE ; WITH
OBSERVATIONS ON REFORM.

WHEN we consider the constitution of a State, we must be mindful of the condition and relations of those who compose it : while we regard them as citizens, we should not forget that they are MEN.

With respect to the other inhabitants of earth, the individual, as FERGUSON observes, * attains to the perfection of its nature ; but in the human kind the species has a progress as well as the individual. Man was once rude ; he advanced in refinement : and it is the province of mortals to improve. Nature formed him for action, both in his bodily and in his mental capacity ; and perfection must still be his aim. Governments, therefore, which will not admit of those ad-

* On Civ. Soc. part 1, f. 1, p. 7.

vances, must be inconsistent with the very nature of man ; and we accordingly find that, as there can be no absolute suppression of this propension, those constitutions which would not admit of such improvement, have been continually obliged to give way.

The constitution of Sparta precluded such advancement, while it aimed only at the preservation of the freedom of the State. Lycurgus shut out improvements, as well as degeneracy : commerce, and its instrument money, were prohibited ; arts, except those which were absolutely necessary, were interdicted, &c. These principles, like his confounding virtue with vice, like his weakening the ties of morality, the ties of nature, were unfitted for mortals, were unfitted for the society of man.

His particular view, says MONTESQUIEU,* was war ; or, as he elsewhere expresses it, † the sole aim of Sparta was liberty ; and the sole advantage of her liberty, glory : yet man was formed equally for peace.

* *Spir. of Laws*, b. 11, c. 5.

† *Ibid.* b. 8, c. 16.

His constitution might have been adapted for a nation of Spartans, surrounded by enemies, and perpetually accustomed to danger ; it might have led them to grandeur, to glory ; * but his constitution was adapted for *Spartans*, and not for *men*.

When Solon gave his laws to the Athenians, he said, what should never be forgotten, he said, that though they might not be absolutely perfect, they were the best which they were able to receive. But though a constitution might suit the particular circumstances of the moment, yet, if its principles be inconsistent with the improvement of the subject, it is not the constitution adapted for mankind ; but if it be so framed, as to admit of such improvement without having its principles subverted, then, and then only, will it continue. It is a *good* government, said MONTESQUIEU, which has in itself the capacity of growing better ; † and we may add, that it is a *bad* one which cannot improve.

* See *Spir. of Laws*, b. 4, c. 6 ; and *Sullivan's Lect.* l. 1, p. 3.

† *Spir. of Laws*, b. 11, c. 9, n. ; and *Reflex. Rem.* c. 9, p. 114, 115, (Engl. ed.)

The plan of the government of China, says LE COMPTE, * was as perfect in its cradle as it is at present. But shall man continue for all ages the same? If one age be rude, its government must undergo an alteration, to suit another which is refined. But this Constitution must fall: and its alterations, till such fall, says HELVETIUS, must be from bad to worse; while those effected every where else will be still to better.

The Feudal system was inimical to the arts and commerce: as arts and commerce increased, that system declined.

A government which precludes all intercourse with other nations, must be inconsistent with philanthropy, with the nature of mankind.

The Jewish nation was instituted with a peculiar design; and that design required that it should be separated from other States; "It shall not be numbered among the nations," said Balaam.† Yet the Hebrews adopted the foreigner, and were commanded to "love him as themselves." ‡

* *Mem. China*, part 2, lett. 1. p. 242. &c.

† *Numb.* 23, v. 9.

‡ *Lev.* 19, v. 33, 34, &c.

An absolute monarchy has always been found unfriendly to improvement. An aristocracy depresses trade, lest the commoner grow great, like the noble who despises him. People, to improve, must be free: and a refining people are constantly seen to be proportionably blessed with the smiles of liberty; and found also proportionably ardent in their sacrifices to the "mountain nymph." *

When the people have a share in the legislative power, they preserve their freedom, and support the means of encouraging the arts which raised them to affluence and respect. Where an intermediate body forms a part of the legislature also, it acts as a standing council, and prevents the distraction of a democracy. The splendour incident to a monarchy employs the exertions of the people, by affording a vent for the production of their industry and arts.

Civil oppression and tyranny prevent improvement in arts and commerce; ecclesiastical prevent advances towards truth: and history gives us too many instances of the inseparability of these.

† Milton's *L'Allegro*, l. 36.

But a civil constitution which clashes with any of the laws of nature must one day be so far destroyed; a religious establishment which prevents the investigation or adoption of truth shall one day be no more.

The British Constitution will admit of the improvement of the subject, and also of advance towards truth. By trade, by arts, has it attained to greatness and flourished: and by trade and arts must it flourish still. The improvement of the intellectual powers, the advances in knowledge, in science, the perfection of mechanic exertion, alike contribute to its support and splendor. The restraints which the established system of religion, and the statutes relative to it, now give to the investigation and promulgation of truth, may be abrogated without affecting the principles of our civil polity. And we must all be convinced, that whatever is inimical to the cause of religious truth, to natural rectitude, to the advancement of refinement in the human breast, or to the diffusion of freedom, philanthropy and peace, must be inconsistent with the economy of the world, and militate against the designs of the Almighty: "as

nothing," as Dr. RUSH remarks, * "can
 " be politically right, which is morally
 " wrong; nor can any necessity ever sanctify
 " a law which is contrary to equity," or the
 nature of things.

Let us not think that a Constitution requires to be subverted, because a particular law is partially oppressive, or a corruption has crept into its practice. If such exceptionable law affect not its principles, or those principles be not wholly vitiated and depraved by such practical corruption, that law and that corruption may be done away without interfering with the Constitution itself.

Thus the game-laws, for instance, may be abolished without infringing the principles of our polity; but they cannot, I think, be continued without infringing the liberty of the subject. What has our Constitution, what have the ends of society to do with the killing of a partridge, any more than with that of a woodcock, a duck, or a sparrow? The game-laws originated in rudeness, and disgrace a refining age: they were the offspring of barbarism, and should have perished together with it.

* *On the Influence of Physical Causes on the Moral Faculty*, 69.

We every day make alterations in our laws : we amend or abolish the old, or we enact new ones : yet our Constitution continues. If a Constitution will admit of alterations in the laws according to the exigencies of the times, without endangering its principles, that Constitution is *good* : if a law essential to the liberty of the subject, or the cause of truth, would subvert its principles, that Constitution is *bad*.

But the laws of a State, says the Marquis Beccaria,* are always several ages behind the actual refinements of a nation. A law made, as Lord Bacon expresses it, † upon the spur of a particular occasion, becomes useless, when that which it was made to restrain or provide for, is no more ; but, as it is frequently difficult to ascertain precisely the moment of its inutility, it is suffered to continue. Such obsolete laws, therefore, serve only to perplex and to ensnare ; they render the honest man the prey of the knave ; they cease to benefit us, and remain only to oppress ; they resemble the uninterred car-

* On Crimes, &c. c. 29.

† *Hist. Hen. VII.* 71, 2. fol. ed.

case of a once-useful animal : the spirit is departed ; their powers to assist us are no more ; they continue only to be noxious and destructive.

Again :—where the people are represented by delegates elected periodically by themselves, the changes which such people experience, will necessarily ask for a change in the state of that representation. The people are a fluctuating body ; and it is absurd to think of binding a body which is ever varying, by laws which are to be for ever the same. A more equal representation of our Commons would not destroy our Constitution, but restore it to its wonted vigour, and seems indeed to be what the very existence of that Constitution must one day demand. Towns which were once flourishing and great, now hide their heads in the dust ; and places which were once scarcely known, have arisen in their turn to importance : “ TIME,” says Lord Bacon,* “ TIME is the great innovator.”

From the fluctuation of events to which every State is subject, some things must ne-

* *Essays*, v. 1, p. 127, 9.

cessarily grow obsolete, and others requisite to be established: for shall immutability belong to mortals? Many things will ask aloud for reform, as well as make new provisions to be necessary. In old kingdoms this must frequently happen; but to propose alterations in the organization of a State, belongs only to him, who can penetrate into the principles of its polity, and view at once the dependencies, the relations, and the consequences, of the intended reformation. The influence of the crown, for instance, is, in some aspects, alarming; but the influence of the crown may be too far reduced: this should be restrained, but not abolished. The crown must have weight, to preserve the unity of the whole.

In an ancient nation we shall always find room for reform, both in its civil and in its ecclesiastical polity: but those who work by violence, will end in wrong; and it becomes us to be firm. But let not an obstinate resistance to the correction of abuses provoke the arm of Freedom to hurl the avenging bolt.

A spirit of knowledge is gone forth: people now think and investigate; the day of

perfection is accelerating. Nothing but what is founded upon the basis of rectitude and the nature of things, can be perpetual. Let us correct the corruptions, the abuses, which we cannot deny: let us adapt our measures to the improvement of the times; and by reasoning and acting on the invariable principles of rectitude, let us show, that the invariable principles of rectitude lead neither to licentiousness, to anarchy, to an equalization of property, dignity, or power. Let not oppressions be perpetuated, which cannot be defended, lest the "toys of desperation" seize the oppressed, and urge them to rase the edifice they wished only to repair.

Is it not the acknowledged and boasted capacity of the British Constitution, to admit of continual advancement towards perfection? Did not that Constitution, however distant, however crude its origin, invariably adapt its provisions to the progress of refinement and truth? Shall *we* then suffer evils to accumulate, while we confess our power to reform? Ought we not rather with ardour to embrace the opportunity which our polity affords; of correcting the abuses which we conceive to have insensibly arisen; and to

effect that perfection, which our unrivalled system appears to have been designed to attain?

Let us then remember with gratitude the enviable advantages which we possess over the inhabitants of the other European States; and let us avail ourselves of those advantages, in preserving and perpetuating the liberty we enjoy, and in the diffusion of freedom and peace. Let us remember, that in most other countries the constitution (if a constitution it can be named) is incorrigible, is utterly incapable of adapting itself to the irresistible progress of improvement and of truth; that the bulk of the persons composing those States, are yet in the most wretched depravity, slaves to despotism and superstition! that whenever that Being, "whose power no creature is able to resist," shall bid the subject emerge from his now unnatural thralldom; shall direct him to assume his wonted dignity, and once more feel himself man; the convulsion in those States must be ineffably tremendous. Humanity recoils with horror at the conception of the impending evils!—But has not Heaven designed our species for a perfection, which it has not as yet attained? Or shall

we say that, though mankind has been improving to this hour, that from this hour mankind shall cease to improve? No! let us rather be assured that, as the various obstacles which have from time to time presented themselves to impede the progress of truth, of liberty, of philanthropy and peace, have been continually removed by a Providence which has so anxiously protected them; that that Providence has not ceased to be anxious for the perfection of mankind; that those obstacles which even still retard the advancement of general refinement and the destined attainments of humanity, shall yet be removed; that all the arts and exertions of despotism shall not avail against the ordinations of Heaven, against the designs of that Power, who hath made of one blood all nations which dwell upon the earth, and who still rules in the kingdoms of men; that though "THE NATIONS ARE ANGRY" * at the diffusion of those principles of truth and freedom, which seem to threaten destruction to oppression and superstition; though the kings of the earth combine, and the princes take counsel together;

* See *Rev.* xi. v. 18.

ther ; that yet their wrath shall turn to his praise ; that He hath spoken, and shall bring it to pass.

Let not the Briton exult over a foe that is fallen. Let the Briton be the last to aid the designs of the despotic, or to rivet those chains on others, which he glories in having shaken from off himself ; but while he gratefully rejoices in the blessings he experiences, let him exert his powers to accelerate the happiness of his fellow men.

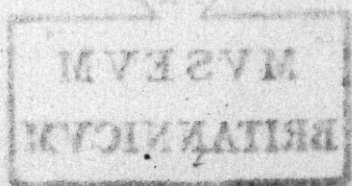
“ The end of government is the good of mankind,” said the great LOCKE* ; “ the greatest good of the greatest number,” said BECCARIA ; † and “ It will always be a glorious undertaking,” said MONTESQUIEU, ‡ “ to make it subservient to human happiness.”

But the tyranny of man over man has astonished Heaven, and disgraced the earth : yet what has man which he did not receive ? And is it possible to believe, that Heaven ever gave to any a *right* to do *wrong* ? And

* On Gov. b. 2, f. 229.

† On Crimes, &c. Introduct.

‡ Spir. Laws, b. 4, c. 6.



does not man do wrong, when he increases the miseries of others? It was evidently the intention of Heaven to make man happy; and can man be justified in counteracting such design?

When governments are oppressive, they should be reformed: to refuse all reformation, and to give way to caprice, is alike absurd; yet it is difficult to draw the line. From hence then appears the danger of inflaming the populace, and of introducing innovation without much care. When a person proposes a reform without having his remedy prepared, he begins at the wrong end. When one concession is made, a second will be asked for; and on granting them a second, they will seek a third. Hence a fixed plan is necessary; and the proposer should mark the point which he is not to exceed. "Hitherto," he should say, "shalt thou come, and no further."—But too few know to discriminate between firmness and obstinacy.

And, whenever reform is urged, let us be mindful of the advice which is given us by a noble author before quoted*: let us "take

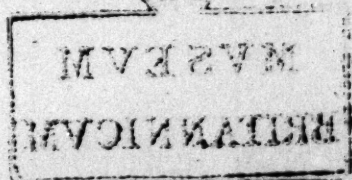
* *Bacon's Ess.* p. 129, vol. I.



good care, that it be the desire of reformation that draws on the change, and not the desire of change that pretends the reformation."

The principles of the British constitution are sound: our polity wants not to be changed, but partially corrected. Most other nations have a government to overturn; we need only to restore ours to its wonted perfection. Let each class of men find protection and security, and each class of men will contribute to its support; let the diversity of interests give firmness to the whole; and, as we cannot extirpate the propensity to tyranny, let us prevent its operations, by the restraint of its *antagonistic* (if it be not too technical and pedantic to say so) and opposite principles. Let us show mankind, that their happiness must consist in giving happiness to others; let us hold out the blessings of peace, of protection, of affection, and industry, to all. When men find themselves safe under the shadow of society, they will be ardent in support of the government which gives them peace; and when their cares are not engrossed for a personal safety, they will cultivate philanthropy and love, and find that the diffusion of happiness to

F 2



others will, by a glorious reflection, contribute to the enhancement of their own.

S E C T. IV.

ON GOVERNMENT RELATIVE TO RELIGION.

WE find a regular concatenation in the various productions of our globe; we observe a just gradation from the grain of dust to the greatest of mankind: and man himself is a link of the great chain of nature.

Man, by his rational faculties, unites the inhabitants of this, with the inhabitants of superior worlds: he must therefore be considered in a double view; as an animal, and also as a being possessed of ratiocination. He is yet an inhabitant of earth, subject to propensions adapted to his situation: he is designed for that of a superior state, and is endowed with intellectual powers; his animal propensities, his hunger and his thirst, his desire for sublunary enjoyments, were given

him as an inhabitant of this world ; and, therefore, will perish with it. These, consequently, cannot render him immortal. His corporeal frame shall one day be destroyed, when those propensions and desires shall also perish. His intellectual talents, his knowledge, his virtue, and the affections of his soul, are capable almost of unlimited improvement : yet is he cut off from this life, “ the bud of being,” ere they scarcely appear to dawn !

Inconsistency has no place in the ordinations of the Almighty. When He gives laws to man, He gives laws which man should comply with. Obedience to one does not require the breach of another : and the commands of His immediate revelation are in unison with those of nature. Man, therefore, standing in a two-fold capacity, as an inhabitant of the present, and as a candidate for a future world, must have respect to both ; and, consequently, his relation to one cannot require him to neglect the duties of the other. He who is so absorbed in the pleasures or business of this, as to leave no room for the preparation for another state ; and he who is wholly engrossed with an enthusiastic ardour

for the discharge of devotional, to the neglect of temporal duties, must be alike culpable; or, in the language of WOLLASTON, must "LIVE A LIE." *

Man is formed with propensities which, though necessary in themselves, may yet excite him to the gratification of them when such gratification would be attended with evil. By his intellectual faculties he is enabled to trace out a Deity; and by contemplation on the objects which surround him, and the occurrences which he is continually witness to, he discovers His attributes and laws, as they are relative to himself, &c.—Hence springs religion; and revealed religion confirms that of nature, and adds what our knowledge of nature could not discover; but, coming from the same source, it can never contradict it.

Nature informs man, that he should love, should honour, and should endeavour to please that power, from whom he derives his being and his happiness; nature teaches him, that the desires connatural to his frame were implanted in him to be gratified; but it

* *Relig. Nat. Delin.* f. 1, prop. III. p. 13, 8vo, ed.

tells him also, that they require direction and restraint. Revelation gives him a clearer knowledge of the Deity, and commands him to regulate his propensions. The laws of revelation do not abrogate those of nature, or forbid an obedience to them.

Truth cannot be inconsistent with itself : whatever contradicts what is *right*, must be *wrong*. As the laws of nature are the laws of God, whatever is contradictory to them cannot be justified. The doctrines of revelation do not contradict those of nature, but are perfectly consistent with them ; the duties it enjoins, accord with those of nature ; and those parts of revelation immediately relative to a Deity and a future world, are by no means incongruous to the laws or deduction of natural reason : it informs us of what nature could not teach us, but it contradicts not what it does.

The doctrines of the Old and New Testaments are consistent with each other, and both with those of nature and reason ; though the deductions made from them are too frequently found to contradict both : but those deductions are no part of revelation. What is necessary for us to know, we are in-

formed of; but there are many things left unrevealed: and as man can not attain to the knowledge of them without a revelation, the knowledge of them cannot be essential to his happiness; nor can his duties extend to what his means of knowledge do not reach. Nature tells him that a Deity exists; but it cannot inform him of the *manner* of that existence: he exists, says SIR ISAAC NEWTON, in a manner not at all human, in a manner not at all corporeal, in a manner utterly unknown to us.* Man knows Him to be infinite; but he can form no strict conception of Infinity. Reason and revelation alike declare Him to be incomprehensible to man; man therefore is not required, because he was not designed, to comprehend Him.

Revelation gives to man the knowledge of a Redeemer, and declares him to be the Son of God; the Christian therefore must believe him to be so: but revelation does not so strictly define to us *how* he is the Son of God, or require our belief as to the *manner* of his production. If a person, from an impartial examination of the scriptures, believes him

to

* See the *Scholium Generale*, at the end of his *Principia*.

to be so, after this manner or after that, let him enjoy the opinion that he forms ; but let him not enforce that opinion upon others : as one person has as much right to differ from another, as that other has to differ from him.

When people leave the revelation of Heaven, and, presuming to be wise above that which is written, establish their own deductions as the conditions of salvation, it is not a matter of wonder that they should be inconsistent in their doctrines : and a very little acquaintance with ecclesiastical history will be sufficient to convince us of the folly and inveteracy of opinionists, and afford too many instances of persecution in which the wicked slew the man who perhaps was more righteous than he.

Ecclesiastical tyranny has always been founded upon mystery.* Every article which was deemed of importance, was incomprehensible to the layman, whose greatest merit consisted in a passive obedience to the "*Church*." The clergy, having the vulgar under thumb, were always the grand means

* Upon her forehead was written "MYSTERY." *Rev.* chap. xvii, verse 5.

of temporal tyranny also : the lay-tyrant courted the influence of the priest ; and when temporal laws enforced speculative doctrines, the tyranny became complete.

Yet society was instituted for the regulation and benefit of man in *this* world, and merely relative to it, and has nothing to do with another : it should look to morality, and not to theoretic opinions. If a man behaves himself well *as a citizen*, what has SOCIETY to do with him any further ? If he believes in transubstantiation, or in consubstantiation, or that the substance remains as before, what is it to any one else ? We have nothing to do with his creed, but his practice. If he is right, God forbid that we should oppress him ! If he is wrong, he must answer for it elsewhere : his error remains with himself ; and to his God he must stand or fall ; but while he hurts not us, let us hurt not him.

Penal laws relative to religion have never had any other effect, said MONTESQUIEU, than to destroy : * they are the arms of Anti-christ, said MILTON ; † and are an insult

* *Spirit of Laws*, b. 25, c. 12.

† *On Civil Power in Ecclesiast. Causes*.

to common-sense. Now if it be just, what a right reverend author* lately asserted, "*That the true end for which religion is ESTABLISHED, is, not to provide for the True Faith, but for CIVIL UTILITY,*" (and what, indeed, can SOCIETY have to do with any thing else?) Society should concern itself no further than in subserviency to that end: and, consequently, we should be extremely cautious that, under the pretence of providing for civil utility, we interfere not with religion, *as religion*; which, even upon the principles and confession of the learned prelate, cannot possibly be within the province of the civil magistrate. Let us take great care, lest we prevent, or in any wise impede, the investigation or adoption of truth; lest we exceed our powers, as citizens, in meddling with those things which are not within the coercion or cognizance of society; or as men, in counteracting the views of Heaven, and opposing or violating its laws.

If a Constitution requires the suppression of religious truth in order to its support, that

* See Warburton's *Alliance*, b. 3, c. 4, p. 340, 8, 4th ed. and see also the 4th and 5th chapters of his first book.

Constitution is unfit to be supported, and sooner or later *must* fall. The British Constitution does not require it. Whatever deprecates investigation, whatever is inconsistent with the nature of things, with truth, or with rectitude, is unworthy of its ALLIANCE; is what it absolutely disclaims. Many things are still recognized as the doctrines of the *Church* of England, which have no relation to the *Constitution* of England; which are no ways essential to civil utility: yet when any thing has been advanced to do away absurdity, we are immediately told that *the Church* is in danger;—yet no one seems to pay any regard to *the Gospel's* suffering by the continuance of those

Aged follies, reverend errors,
Grown holy by traditionary dullness
Of school-authority.

While they talk so vociferously of the danger of the Church and of its connexion with the State, and tell us to be quiet, and do nothing rashly, yet they continue deaf to the cries of Truth, thus wounded in the house of her friends: whence absurdities are perpetuated which disgrace the name of religion,

and which are by no means requisite to the ends of society.

When doctrines evidently repugnant to those ends are interwoven with, and made part of a particular religion, it is undoubtedly the duty of society to exclude the persons embracing such doctrines from political power, and restrict them from disturbing its peace. A *Test* therefore is necessary; but then such Test should be relative to such doctrines alone, and not extended to others which are in themselves indifferent: and it should never be forgotten that, as it is established only as the means of civil utility, as subservient to the ends for which society was ordained, such Test, and the principles or doctrines used as the instruments of discrimination, should be, in their nature, those which are within its authority to regulate and controul.

To condemn a whole sect or denomination of Christians in the gross, because such doctrines are imputed to such religion, and directing vengeance against the religion at large, and not merely against the exceptionable article, is impolitic, is tyrannic, is unjust. To make an ordinance of Christianity,

which, in itself, has no relation to political matters, such instrument of discrimination; to pervert it to the severing, when it was intended to unite, its professors; to prostitute it to the purposes of civil convenience or the animosities of party; is unwarrantably absurd, is a profanation of such rite. What is it to SOCIETY, how a person receives the Communion; whether in one, or in both kinds; whether he annexes this or that idea to the term; or whether he receives it at all? It is not in transubstantiation that the danger of Popery consists: if the Papist or Dissenter give security by his oaths for due obedience to the laws of a State, and disclaim absolutions and dispensations; if he renounce those doctrines repugnant to the ends of society, which are inconsistent with the well-being of the State, or the peace of its constituents; what, in God's name, have we to do with his ceremonies or speculative opinions?—Nothing has ever injured the cause of Christianity so greatly, as the forsaking its simplicity, and making mysteries of its institutions and doctrines, and then wresting them to temporal purposes.

The civil power should embrace the sanctions, the assistance which religion gives, towards the furtherance of the ends for which society was established; but society can never make it subordinate to its sway. When, not contented with the support it already gives to society, society sacrifices truth at the shrine of convenience, and endeavours to controul the institutions of the Almighty by making the compliance with, or practising of them, dependent upon the will of civil authority, it exceeds its powers; it acts contrary to the nature of things.

If any by avowing, or by not abjuring, a particular tenet, does yet not frustrate or weaken the ends of society, a government acts so far tyrannically as it subjects him, by reason of such tenet, to punishment or disability. Does *the manner* of taking the Sacrament of the Lord's Supper affect the ends of society? Does his belief as to the substance of the Deity, of the bread, or of the wine, interfere with civil utility? If it does not, (and who will say that it does?) what has society to do with it?—As to the observance of such Sacrament *religiously* considered, it is the province of Heaven alone to pronounce,

“Religion is of God to man; the civil law is of you to your people;” says VOLTAIRE to the powers that be. Let the powers that be, punish for the breach of the civil law; but let the Almighty vindicate his own. “Man must honour, not avenge him,” said the great MONTESQUIEU; * and a greater than MONTESQUIEU has said the same; HE has said, “Vengeance is MINE.”

Crimes are offences against society; society should therefore punish the perpetrators of them: sins are offences against Heaven; and it is Heaven that must punish or forgive. By sin, as sin, society is not injured; and, consequently, it cannot be within its cognizance.

Where the idea of punishing for sin and avenging the cause of the Almighty has prevailed, the greatest of cruelties, the most tyrannical proceedings, have been exercised, that ever shocked the feelings or astonished the heart of man. It was *this* which made an abominable and ferocious priesthood stain their hands with the blood of thousands, in the name of the God of Peace! It was *this* pulled

* *Spir. of Laws*, b. 12, c. 4.

pulled princes from their thrones, and threw their subjects into fire. It was *this* tore the father from his family, the servant from his master, and the friend from friend ! It was for *this* the chains were prepared, the fires kindled ; and, “ shall I tell it ! ” it was *this* which burned alive the infant, while the mother burned.*

In vain did society endeavour to protect its constituents, and answer the ends of its institution by securing the peace of the individual, when once the power of punishing for sin was assumed by mortals : their lives, liberty, and property, were often at the mercy of an arbitrary and tyrannical class of men, whose delight was in blood. The ends of society were frustrated by the ever-smoking sword of persecution ;—and often did they thus expire beneath the cruelties of this hell-born fiend,

When once this idea was established, society was perverted ; and instead of the blessing, became the curse of man : when its magis-

* The persecutions in the Isle of Guernsey, in the time of Mary.

trates, "from the prince to the petty constable," became the avengers of God; and when the clergy evinced that, however they professed themselves the servants of the Almighty, they had uniformly approved themselves the scourges of mankind.

Yet religion must still be the grand regulator of the acts of man: it is the duty, therefore, of a government to encourage it; but this cannot be done by establishing a speculative creed. Let the religion of society be founded more particularly upon nature and morality; and so far as it embraces revelation, let it be as simple and as general in its terms as it is possible. * When a nation descends to the minutiae of theory, it only creates sects and heresies: it obtrudes upon the

* Thus, for instance, would it content itself with requiring a belief "in the resurrection of the *dead*," as it occurs in the Nicene, or, more properly, the Constantinopolitan creed; it would embrace every denomination of Christians: whereas, should it go further, and say you must believe "in the resurrection of the *body*," as it is in the Apostles' creed inserted in the Liturgy, or that "of the *flesh*," as it occurs in the Baptismal Service, it would afford at least a wide field for controversy, and perhaps exclude the greater part of its Christian professors.

prerogative of Heaven ; and, in effect, presumes to give a revelation to man. The doctrines of Christianity stand not in need of the aid of the civil power ; they flourished in defiance of its oppressions : and temporal provisions relative to theoretic religion have only proved the munition of error, and the bane of peace. Truth will protect itself.

When Christianity shall have shaken off the corruptions of its doctrines, and when the immoralities and rapacity of its priesthood shall no more disgrace its cause, the truth of its revelation, and the purity and benevolence of its precepts, shall be more generally seen and acknowledged. As nations become more enlightened, and individuals, disdaining the trammels of system and the restraints of interested establishments, investigate, scrutinize, and reason for themselves ; as the principles of nature and the relations of mankind become more known and diffused, those corruptions and immoralities shall be gradually discovered and condemned. Many, indeed, unable or unwilling to discriminate between those corruptions and the truths of revelation, from the art exerted to confound them together, will, and indeed already do

consider Christianity as the fabric of enthusiasm, interest, and deceit : yet, as the principles of morality and natural religion become diffused, will the doctrines of the Gospel become insensibly embraced ; the coincidence of their positions will be discovered, and the source of them acknowledged the same. Man will then no longer attribute to the Deity what he himself would be ashamed of ; * but religion, both natural and revealed, will be found to be a scheme benevolent and just, worthy of the Almighty to confer, and wisely adapted to the nature of mankind.

If benevolence and affection be so strongly implanted in the human breast, shall we deny them to the source from whence they sprang ? If from the exercise of those affections flow the purest and the truest enjoyments of humanity, shall not Heaven look with pleasure and complacency on the bosom in which they dwell ? Shall it not require mercy before sacrifice, and love before fear ? Shall we say that man knows compassion, tenderness, and philanthropy, and assert that the Al-

* As, for instance, the Augustinian doctrine of Original Sin ;—An infinite satisfaction, &c.

mighty rejoices not in the happiness of his creatures? Shall we conceive that their pleasures give not "joy in Heaven," or that the sufferings of his people are not noted in his book? Shall not man look up to the Deity as to his father and his friend? Is it not more consistent with the nature of the one, and with the attributes of the other, to consider the Almighty, as he is represented to us both by nature and revelation, as the God of benevolence and peace, than in the light in which he has been too often placed by an ignorant, presumptuous, and misanthropic priesthood, when they wrested the simplicity of the Gospel into mystery to deceive, and when they smeared with the blood of innocence the altars of their God! "Shall mortal man be more just than God? Shall man be more pure than his Maker?" Shall we be commanded to love one another, and shall we not contemplate with affection, with gratitude and confidence, the Fountain of Love? Should we not entertain conceptions like these of the Power who has given us existence, and who has formed us to partake of bliss? If the happiness of man be so incontrovertibly His aim, must not he be

pleased with the furtherance of it in his creatures? Must not morality, and the exertions of benevolence, be more acceptable in his sight, than the blind and implicit adoption of unintelligible mystery, illusive in its progress, and misanthropic in its effects?

Religion, then, as it concerns society, may be considered in a three-fold view: 1st, As it affords a mean of obliging the subject by oaths, *i. e.* by his conscience, by his hopes or fears of futurity, and the dread of offending his God; and thus giving an additional *security* for the obedience of the laws, as well as furnishing a *motive* for such obedience. 2dly, As to any doctrines which are called religious, which are evidently inconsistent with the well-being of such society; as, for instance, that the clergy should be exempted from the civil power, or its laws, or the acknowledging any power out of the society to be superior to any within. And 3dly, As it relates to other individuals than those who profess it; as if the religion of one man influence him to injure another. But if the religion of any affords such security by oath or affirmation, (and surely *all* religions must do this, except in cases of indulgences and

absolutions) if it be consistent with the well-being of society, and not injurious to other individuals, it cannot be the subject of temporal law.

The religion of the Gospel is calculated to answer these ends: it affords the strongest motives to obey the laws of a State, and it inculcates due obedience to the powers that be; and, so far from influencing its professors to injure any one, it is more ardent in enforcing benevolence and love than perhaps any religion whatever. Benevolence and affection are, indeed, its very characteristics as to the practice of its professors; and its theory is in exact unison. As to the speculative opinions of such professors, we have nothing to do, nor the Gospel to answer for.

And let society then co-operate with Heaven in the furtherance of those ends. But whether the establishment of speculative *cre-denda*; whether the support of unintelligible mystery; whether pains and penalties, fire and faggot, racks, gibbets, and gaols, would be conducive to the furtherance of them, to the cause of truth, or to the happiness of man; the history of all ages and nations, as well as the dictates of revelation and nature, will answer best.

S E C T. V.

ON GOVERNMENT, RELATIVE TO ITS
ORIGIN AND POWERS, ITS LAWS AND
ORGANIZATION.

THAT Being who called man into existence, made him subject to certain laws. He is born; he advances towards maturity; and then sinks into the grave.

Endowed with volition, capable, in some degree, of self-government, yet is he conscious of, deduces, or is instructed in, laws which claim his obedience, and circumscribe his acts; laws ordained by a power superior to himself, and to which he sees even Nature bow.

Can the heart of man then own that depravity, that presumption should be suffered to be heard in urging that he could abrogate or dispense with those laws which his Maker had ordained him to comply with? Hence then must every law of man which endeavours to rescind, suspend, dispense with, oppose, or
contradict

contradict, a law of the Almighty, -whether natural or revealed, which is inconsistent with moral rectitude or the nature of things, be of no coercive power, but absolutely nugatory and vain.

The laws of this nation are founded upon those of God. The law of nature is part of the law of England; * and the law of England declares its superiority. It pronounces it to be immutable; that it cannot be annulled or dispensed with, either by the individual, or by the society at large. †

It is part also of the coronation-oath of our Kings, that they will, to the utmost of of their power, maintain the laws of God: ‡ and, accordingly, Sir John Fortescue affirms that “as oftyn as a Kyng doth any
“thyng ageyn the lawe of God or ageyn the
“lawe of nature, he doth wrong.” §

* So is Christianity. 1 *Vent.* 293, and see 2 *Str.* 834.

† *Stat.* 25 *Hen.* VIII. c. 22, f. 3. *Finche*, b. 1, c. 1, and 6. *Dr. and Stud.* Dial. 1, Ch. 2, 4, 6, 19. 7. *Co.* 4 b. 12 b. *Plowd.* 304-6. *Co. Litt.* 11 b. *Hob.* 87, 225. Pref. to *Fort. Mon.* 29. 1 *Bl. Comm.* Introd. s. 2, p. 41, 3, 54. 1 *Hawk. P. C.* c. 27, s. 6. *Noy's Max.* c. 2, p. 19, &c. *Jenk. Cent.* 79, pl. 55. and see the passages quoted in *Jenk.* pref. p. vi.

‡ *Stat.* 1. *William and Mary.* St. 1, c. 6, s. 3.

§ On *Mon.* c. 8, p. 30, and see 2. *Hawk. P. C.* ch. 37, f. 28.

From these principles has it established a maxim, that whatever is contrary to nature or reason, is contrary also to law.*

Man was not made for society, but society for man : the powers and laws of society must therefore be considered as relative to his nature. Man himself entered into society, and its laws are his own ; consequently, society has no power which man cannot give it ; and man cannot give to society that power which he has not himself.

We have seen that, as he is the creature of his God, his laws must be subservient to those of nature. We will now consider his laws as they are relative to himself in his social state, and as not interfering with those of a superior Power.

As, therefore, men were by nature equal, no one could have had authority over another, as authority is inconsistent with equality ; and consequently, all authority or political superiority or power can be only from the gift of the individuals which compose the State. †

* *Co. Litt.* 92 a. 97 b. *Plowd.* 304. 307. *Black. Comm.* Introd. s. 3, p. 70.

† The power in man to punish for the breach of a moral law, when in a state of nature, is not here intended to be

As society therefore was entered into voluntarily by individuals, and government and laws established by their consent, it must necessarily follow that their future good must have been their motive for so doing. Man must have some motive or cause for action, and such motive or cause must have either a real or apparent good as its consequent, superior to that of inaction; otherwise man would not act. The motive therefore of the individual for entering into society, and being obedient to government and laws, must have been in that it appeared to him to have been productive of good; as man would not choose evil as evil; and, consequently, he would not have given up his natural rights and liberties, without a consideration for so doing. He therefore entered into society, and became

meddled with. See *Locke on Gov.* b. 2, c. 2, s. 7; and *Ferg. Civ. Soc.* part 1, s. 10.

But nevertheless the above position may be considered as embracing it without violation: as such power must certainly be vested, by nature, in *individuals*; and, consequently, it must be the individual who must transfer it to the society.

This power of one man over another is perfectly consistent with general equality, since it is naturally the privilege of one equally as of another; for B has as much right to punish A, as A has to punish B.

obedient to government and laws; for the purpose, and with the view, of increasing his own happiness and good; and not to establish an uncontrollable tyranny, with power to impoverish, to oppress, to enslave, or to destroy. "No man," said the MARQUIS BECCARIA,* "ever gave up his liberty merely for the good of the public: such a chimæra," he adds, "exists only in romance."

To suppose, indeed, a multitude of persons assembled together for the purpose of formally entering into society, and concluding upon certain principles and laws, at the very origin of such society, is absurd. Though a fiction of this kind may not always be useless in theory, † yet for it to take place actually and in reality seems contradictory to nature. Society began from a particular family, and from thence grew by degrees: laws were introduced as occasion required; and society became more perfect as it advanced. The idea of a public, or the society abstractedly taken, was, at the origin of such society, scarcely thought of: a length of time was

* On Crimes, ch. 1 & 2.

† See Law of Forfeiture, III, note.

necessary to attain that refinement ; but it was at length attained.

When men entered into society, they gave up such portions of liberty, or exertion of power, as might be inconsistent with the happiness or safety of other individuals, or which were necessary to be relinquished for the well-being of society ; but *such being the only ends proposed*, those gifts of liberty, or that relinquishment of power, could not extend further than was necessary for the attainment of those ends. And as the laws of society are subservient to the ends for which such society was established, those laws can have nothing to do with the individual any further than society is affected or concerned ; and, consequently, all abridgment or restriction of the natural liberty of the individual, any further than is requisite for the accomplishing of those ends (the general happiness and safety), must be unjustifiable ; must be proportionably tyrannic. And hence must it follow, that every man has a right to do that which hurts not another, or is not inconsistent with the ends and well-being of society.

The power of society can never be sup-

posed, said LOCKE, to extend further than the common good. *

Men, said another writer, are intitled in society to all the rights they enjoyed in a state of nature, that do not interfere with the rights of the society in general, or of the associates in particular. †

Political, or civil liberty, says BLACKSTONE, is no other than natural liberty, so far restrained by human laws (AND NO FURTHER) as is necessary and expedient for the general advantage of the public. Hence we may collect, that the law which restrains a man from doing mischief to his fellow-citizens, though it diminishes the natural, increases the civil liberty of mankind; but that every wanton and causeless restraint of the will of the subject, whether practised by a monarch, a nobility, or a popular assembly, is a degree of tyranny: nay; that even laws themselves, whether made with, or without, our consent, if they regulate and constrain our conduct in matters of mere in-

* See *Locke on Gov.* b. 2, §. 131, &c.

† See an *Essay on Civil Gov.* printed for Willock, Cornhill, 1743, 8vo. part 1, ch. 4, p. 135, &c.

difference, without any good end in view, are regulations destructive of liberty.*

All government, even within a State, says Dr. PRICE, becomes tyrannic as far as it is a needless and wanton exercise of power, or is carried further than is absolutely necessary to preserve the peace and secure the safety of the State.†

The perfection of human society, says LORD KAIMS, consists in that just degree of union among individuals, which to each reserves freedom and independency as far as is consistent with peace and good order. The bonds of society may be too lax; but they may also be overstretched.‡

Again:—Every wanton, causeless, or unnecessary act of authority exerted by the legislature over the people, is tyrannical and unjustifiable, says the AUTHOR OF THE PRINCIPLES OF PENAL LAW: for every member of the State, he adds, is of right intitled to the highest possible degree of li-

* 1 *Comment.* ch. 1, p. 125, 6.

† *On Civ. Gov.*

‡ *Law Tr.* tr. III. p. 88.

berty, which is consistent with the safety and well-being of that State. *

And, lastly, DE LOLME has declared that the subjects of this nation do actually possess the liberty of doing whatever is not positively forbidden by the laws. †

And as legislation is the peculiar attribute of the supreme or sovereign power of the State, and as there can be but one supreme or sovereign power in such estate, so the origin and source of such legislative power is in the united people or aggregate of individuals.

But such legislative power may be delegated by society ; *i. e.* instead of being the legislature itself, and each individual voting, it may authorise a particular part of that society to exercise such power : as the society of England lodges the legislative power in King, Lords, and Commons ; or, in other terms, society may depute certain individuals to enact

* *Principles of Penal Law*, ch. 1, f. 2, & ch. 23, f. 1. &c. See further, *Essay on the Polity of Eng.* printed for Cadell, Strand, 1785, b. 3, c. 9, p. 270. *Priestly on Gov.* f. 3. p. 55. *Æconomus*, v. 3, p. 54, 333. *Montesq. S. L.* b. 11, c. 3 & 4 ; & b. 26, c. 20.

† *Constitution*, b. 2, ch. 17, p. 451, ed. of 1789.

enact laws for, or as, the whole body which so deputed them ; but, in whose hands soever placed, it must be derived from, and only from, such society, or aggregate of individuals.

As the legislative power is, in this nation, vested in the King, Lords, and Commons, it follows that *they only* have such legislative power ; and, consequently, the laws of this realm are such, AND NO OTHER, as are enacted by them unitedly, or the ancient customs of the land ; and therefore all other laws, as the civil, canon, &c. are of no validity in this kingdom, but as they are ratified, consented to, or allowed of, by the King and both Houses. Thus the canons of 1603 are of no force here as to laymen ; having been made in convocation, and confirmed only by the King, and not by the Lords and Commons, without whom the King has *no* power to enact laws which can bind the laity. *

For as a government is the creature of the persons composing it, it must, consequently, appertain to such persons, or aggregate of in-

* See sect. 1, p. 6, note *.

dividuals, to organize the same; both as to its legislative, and also as to its executive power.

And hence also, in the infancy of States, we find most societies electing their kings. Paternal authority which presided over particular families, must soon have ceased: when families increased, detached parties migrated, and formed societies for themselves. When, therefore, a father died, or a party migrated, election necessarily took place; and when, by the continual choice from a particular family, it ripened into hereditary succession, we still find those small societies, when pressed by danger, uniting in a common cause, and electing a king, or general (for the first kings were little more), who presided over the whole, and led the assembled nations to war, &c.

But the change from liberty to slavery, like that from tyranny to freedom, is progressive. The monarch was merely the representative of the State: it was in the society at large that the ultimate property of the lands was considered as vested; and it was from the society at large that all authority was derived. The king represented that so-

ciety as to many purposes : he was the generalissimo and the chief magistrate ; the military returns were rendered to him in the one case, and the administration of justice was exercised by him in the other. At length, however, he became permanent in his office ; he succeeded by inheritance ; and he gradually assumed the most magnified importance. Property and power flowing immediately from his person, it was forgotten that they were primarily derived from the State. When the spirit of independence was supplanted by the apathy of ignorance and superstition, Ambition embraced the favouring moment, and seated Tyranny upon the ruins of every thing dignified in man. The monarch arrogated to himself what belonged to the social body, which made him what he was ; he assumed as his own right, what he was delegated to administer. Hence was he said to have been the ultimate proprietor of all the lands in the realm ; and hence the source of justice and honour.

But the progress of tyranny was varied in various States ; in States which originally boasted the same system of polity. In some few it was never able to triumph absolutely

over liberty: in some few the radical principles of government, and the original limitation of delegated power, were anxiously and successfully preserved.

For as it belonged to the particular society to nominate the person who was to fill this important post, so it as certainly belonged to that society to stipulate the conditions upon which he was to be elected; to limit and regulate his authority; and even to depose him, if he broke or exceeded them. Those terms were contained in the oath which

* In this kingdom the subject is still said to hold his lands mediately or immediately of the King; but it is of the King in his *representative* capacity. The ancient tenant *in capite* was not said to hold simply *de rege*, but *de corona*; such was the language of the old law. He held of the nation at large: he did not hold of William, of Henry, or of Edward.

The superiority of the law over the King is much dwelt upon by *Bracton* (see him *de Legibus*); and *Bracton* wrote in the reign of Henry the Third. This, therefore, is not the accommodating doctrine of the hour. The care and firmness of the people of *Arrogan* are well known: the same superiority among the *Franks* was equally notorious. The story of *Clovis* alone would sufficiently evidence this, without having recourse to the testimonies of a *Boulainvilliers*, or an *Hottoman*.

The Author has treated more at large on this subject in his *Essay towards the further Elucidation of the Law of Descents*, c. 3. s. 1; and his *Introduction to the Tenures of Gilbert*.

he took at his coronation, which was in the nature of a convention or compact, between him and the society who invested him with power. * Hence perhaps was it, by our law, so great a crime to alledge that the King had broken it; † yet we find frequent instances of our ancient Kings being obliged to renew their oath.

And, agreeably to this, LORD CHIEF BARON COMYNS lays it down as law, that “qualifications may be required of him who shall be admitted to the possession of the Crown, for want of which he shall be excluded;” ‡ as that he must be a Protestant, &c. &c.

When our King succeeds, his prerogative and rights are prescribed and regulated by the laws: hence is it an established maxim, that the King has no prerogative but that which the law allows him. § The King has no

* See 1 *Bla. Comm.* ch. 6 & 7.

† See 1 *Hawk. P. C.* ch. 23, sect. 5.

‡ *Dig.* Vol. 5, tit. *Roy* (A 3) & (C); and see the *Statutes* there cited.

§ 12 *Co.* 76. 2 *Inst.* 36, 63, 496. 1 *Bla. Comm.* ch. 1, p. 141. ch. 7, p. 237, &c. See *Jenk. Cent.* 79, pl. 55. *Plowd.* 236, and *Bracton*, l. 1, c. 8, f. 5, & l. 2, c. 16, f. 3.

power to imprison or arrest any one, but by the methods which the law ordains.* Neither can he send any one out of the kingdom without his consent; not even a criminal (except soldiers and sailors.)† He cannot give up the right or interest which any of his subjects have in any suit, remedy, &c.‡ nor can he change the nature of a punishment ordained by law, except it be to a milder one, and that by the consent of the party, as a condition of his pardon, &c.§ So he cannot affect the property of the subject;|| nor can he, by his proclamation or otherwise, by his own power, alter, in any point, the laws of the land.¶ In short,

* 2 *Inst.* 186, 7. 2 *Brownl.* 20. *Magna Charta*, c. 29.

† 2 *Inst.* 45, 6. 1 *Bla. Comm.* c. 1, p. 137. *Mag. Charta*, c. 29.

‡ *Plowd.* 334, 487. 2 *Hawk. P. C.* ch. 37, f. 33. &c. 1 *Str.* 529. 2 *Str.* 1272. 12 *Co.* 29, 31. &c. &c. 4 *Bla. Comm.* ch. 31, p. 398, &c. *Jenk.* 307, pl. 83.

§ 4 *Bla. Comm.* ch. 6, p. 93. ch. 31, p. 401. c. 32, p. 404. 2 *Hawk. P. C.* ch. 48, f. 2. &c. See 3 *Eunomus*, 167, 8. Nor can he extinguish, or deprive himself of the power of pardoning. See *Lord Raym.* 214.

|| 2 *Inst.* 36, 63, 532. *Plowd.* 236. *Stat.* 16. *Car.* c. 10, f. 5. *Bill of Rights*, Art. 4. 1 *Wm. & Mary*, St. 2, c. 2, f. 1, &c.

¶ 12 *Co.* 75. 2 *Hawk. P. C.* ch. 37, f. 28. &c. *Jenk.* 97, pl. 88, 285, pl. 18. 117, pl. 33. *Finche, Law*, b. 2, ch. 1.

his prerogative, however great, cannot, in any wise, warrant him to do wrong, or to injure his people; * but he is bound, by his office, to preserve his subjects, and to exercise his prerogative for their good. †

Thus is the power of the King, derived from the society at large, instituted for the furtherance of the general welfare, and limited by its transcendent authority; and, in case it should ever happen that this power, so instituted for good, should be exerted to oppression, to the injury of the subject, or the subversion of the government, the society has carefully provided remedies for redress. The subject may petition the King, ‡ or impeach his ministers: nay, if the entrusted power is so perverted, as to amount to an en-

* *Plowd.* 246, 7, &c. 1 *Bla. Comm.* ch. 7, p. 238. *Showers's Parl. Cas.* 75.

† *Fitzb. Nat. Brev.* 232, A. *Plowd.* 315, b. *Showers's P. C.* 75. *Finche L. b.* 2, ch. 1, p. 84.

‡ *Bill of Rights.* And this is not a mere nominal privilege, as in *Russia*. See *Perry's State of Russia*, 142, 3; and in *Spir. Laws*, b. 12; and also in 1 *Bla. Comm.* ch. 1, p. 143. The difficulty and danger of obtaining redress from the Sovereign in *Russia* have given rise to a proverb, that "God is high, and the Czar afar off." (*Perry* 189, 90. London ed. of 1716, 8vo.)

deavour to subvert the Constitution, and to frustrate those ends for which society was ordained, the society has a right of retaining such authority, and of exerting "those its inherent (though latent) powers, which no climate, no time, no constitution, no contract, can ever destroy or diminish." *

From hence then must appear the absurdity of cavilling at a kingly government. If the power of the King be thus derived from, and limited by, the laws of the State, what mischief can ensue from the *name* of his office?

Upon the whole, therefore, we find that the principles of the British Constitution are just; are consistent with the nature of mankind; wisely calculated to promote the real happiness of the subject, and to secure to him the enjoyment of his liberties; and that it has in itself a capacity of correcting its abuses, and of adapting its laws to the improvement of the times, consistently with those principles on which it is established.

* Revolution of 1688. 1 *Bla. Comm.* ch. 7, p. 245.

THE END.

